

## REMARKS

Claims 8, 22, 26, 30 and 34 are now pending in the application. Claim 8 is amended herein to include the subject matter of claims 10 and 11. Claim 22 is amended herein to include the subject matter of claims 24 and 25. Claim 26 is amended herein to include the subject matter of claims 28 and 29. Claim 30 is amended herein to include the subject matter of claims 32 and 33. Claim 34 is amended herein to include the subject matter of claim 35. Claims 9-11, 23-25, 27-29, 31-33 and 35 are cancelled herein. No new matter has been added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

Claims 8, 22, 26, 30 and 34 are amended herein to establish the criticality of the film thickness of the first oxide film by calling for a specific thickness and a manner in which the first oxide film is formed. It is respectfully submitted that this subject matter has been previously presented in at least in claim 35 which called for both the specific first oxide film thickness and the manner in which the first oxide film is formed. Accordingly, it is submitted that this subject matter should have been fully examined in the Office Action and that a new search is not required to review the subject matter called for and render an opinion as to the allowability of claims 8, 22, 26, 30 and 34. Thus, Applicants respectfully request that the Examiner enter the claim amendments, examine the merits of the subject matter called for in claims 8, 22, 26, 30 and 34 and not require a new search.

## DRAWINGS

The drawings stand objected to for certain informalities. The Examiner is directed to the requested amendment to the specification submitted in the Response filed on March 3, 2004. In that Response, the specification was amended to clarify that the nitride-containing layer is indicated by reference indicia 42 and not reference indicia 44. It is respectfully submitted that with the previously requested amendment to the specification, the objection to the drawings is rendered moot. Accordingly, withdrawal of the instant objection is requested.

## SPECIFICATION

The specification stands objected to for certain informalities. The title has been amended herein. It is respectfully submitted that the new title is descriptive of the present invention to which the claims are directed. Accordingly, withdrawal of the instant objection is requested. If the Examiner disagrees with the new title, however, the Examiner is encouraged to call the undersigned to discuss appropriate titles that would be acceptable to the Examiner.

## REJECTION UNDER 35 U.S.C. § 112

Claims 26-33 stand rejected under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed. Notwithstanding, claims 26 and 30 are amended herein to remove the reference to the first oxide film being free of boron and phosphorous. Accordingly, it is respectfully

submitted that the rejection is now rendered moot and withdrawal of the instant rejection is requested.

**REJECTION UNDER 35 U.S.C. § 102**

Claims 26, 27, 29-31 and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Masashige (JP Pat. No. 10-154792). This rejection is respectfully traversed.

Claims 26 and 30 both call for "the first oxide film is an oxide film that is formed by a reduced pressure CVD method using TEOS, and the first oxide film has a thickness of 30-70 nm." It is respectfully submitted that the characteristics of the first oxide film called for in these claims are critical to the invention as clearly stated in the specification at paragraphs [0016], [0085] and [0123] to [0127], as shown in Figure 17 and as stated in the Responses filed on March 3, 2004 and August 12, 2004. Specifically, it is noted that these claims call for both a specific thickness of the lowermost oxide film and the manner in which the lowermost oxide film is formed. Accordingly, it is respectfully submitted that the criticality of the subject matter in claims 26 and 30 is established. It is respectfully submitted that the Masashige reference fails to disclose this subject matter. Accordingly, it is respectfully submitted that claims 26 and 30 are patentable over the prior art of record. Claims 27, 29, 31 and 33 are cancelled herein. Accordingly, withdrawal of the instant rejection is requested.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 8, 11, 22 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goda (U.S. Pat. Publication No. 2001/002713) in view of Machina (U.S. Pat. No. 5,376,590). Claims 9, 10, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goda/Machida in view of Wu (U.S. Pat. No. 6,008,517). Claims 28, 32, 34 and 35 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Masashige in view of Park (U.S. Pat. No. 5,888,910). These rejections are respectfully traversed.

Both claims 8 and 22 call for “the first oxide film is an oxide film that is formed by a reduced pressure CVD method using TEOS, and the first oxide film has a thickness of 30-70 nm.” Similarly, claim 34 calls for “the first oxide film has a thickness of 30-70nm, and the first oxide film is an oxide film that is formed by a reduced pressure CVD method using TEOS.” It is respectfully submitted that the thickness of the oxide film and the manner in which the oxide film is formed as called for in claims 8, 22 and 34 are critical to the invention as clearly stated in the specification at paragraphs [0016], [0085] and [0123] to [0127], as shown in Figure 17 and as stated in the Responses filed on March 3, 2004 and August 12, 2004. With the critical claimed range and the manner in which the oxide film is formed present in claims 8, 22 and 34, it is respectfully submitted that the prior art of record does not disclose, teach nor suggest these specific ranges and manner of forming the oxide film. Thus, it is respectfully submitted that claims 8, 22 and 34 are patentable over the prior art of record. Claims 9-11, 23-25, 28, 32 and 35 are cancelled herein. Accordingly, withdrawal of the instant rejection and allowance of claims 8, 22 and 34 is requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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